

The Planning Commission of the City of Fort Bragg met in regular session on the above date at 6:01 p.m., in the Fort Bragg Town Hall, 363 N. Main Street, Fort Bragg, and the following items were discussed in the order presented.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Chair Don Snyder, Vice Chair Georgia Lucas, Commissioners Meg Courtney, Mark Hannon, and Kathleen Johnson.
Absent: None.
Staff Present: Linda Ruffing, Community Development Director; Dave Goble, Director Public Works; and Nancy Philips, Administrative Secretary.

APPROVAL OF MINUTES

Moved by Courtney, seconded by Hannon, to approve the August 10, 2005 minutes as written.

VOTE: Ayes: Commissioners Snyder, Courtney, and Hannon.

Abstain: Commissioner Lucas and Johnson, who were not present at that meeting.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

PUBLIC HEARINGS

1. **LLA 2-03 and VAR 2-03; Gayanne and Scott Alexander (applicants); Merchants Finance Corporation (owner); Ed McKinley (agent); 1405 Cedar Street; APN 020-470-20/21; Lot Line Adjustment to transfer 15' by 222' from parcel 2 (APN 020-470-20) to parcel 1 (APN 020-470-21). The remaining 15' of parcel 2 would be dedicated to the City of Fort Bragg for street improvements on Rasmussen Lane. Variance is requested to reduce the street side (west) setback from the required minimum of 10' to a minimum of 5' to provide a larger building envelope on the parcel. The building envelope is established due to the presence of wetlands and a rare plant on a majority of the property. (NOTE: This item was continued from August 10, 2005.)**

The Agenda Item Summary Report prepared for this item was reviewed with the Planning Commission by Director Ruffing. Responding to questions from the Commission, Ruffing explained that the applicant is proposing to merge half of the smaller parcel into the larger parcel and to dedicate the remaining 15' strip to the City for a right of way. She noted that the application was submitted prior to enactment of citywide wetland protection regulations in the Land Use & Development Code. She explained that the application was consistent with the recently enacted regulations which allow for a less than 50' buffer, if the reduced buffer is found sufficient to protect the resource values of the habitat. She stated that the conditions recommended in the staff report were developed based on consultation with the State and federal agencies with jurisdiction over wetlands and rare plant habitat (the Regional Water Quality Control Board, Department of Fish and Game, and the U.S. Army Corps of Engineers).

Discussion:

Chair Snyder opened the public hearing at 6:37 p.m., and stated that speakers would be limited to eight minutes.

Public comment on this agenda item was received from:

1. Ed McKinley, agent, requested more than eight minutes to speak on behalf of the applicant. McKinley posted maps on the wall showing boundaries of the building envelope, deceiving

sledge, and wetland; site hydrology; and the right of way. He noted that the buildable area is 7% of the lot and is not a source of water for the wetland. The Corps determined that the building site is outside the wetland. There is no fill proposed for the project. The area to be developed is uphill with grassy soil. He believes that trying to create a wetlands mitigation bank could destroy the deceiving sledge habitat. The mitigated negative declaration incorporates concerns raised by public agencies. This property has been on the market for ten years, and no one has offered to buy it including the Mendocino Land Trust. The dedication of a portion of the property to the City was offered by the applicant, not proposed by the City. He stated that, in his opinion, this lot meets the three findings required for a variance. The first finding is that the application of the zoning regulations would deprive the owner of privileges enjoyed by neighboring property owners. Everyone in the neighborhood has large yards. If the variance is denied, 5' of property would be lost which would significantly affect the functionality of the house. There would not be room for off-street parking. Neighbors have off-street parking and double garages. This house would be smaller. The second required finding for a variance is that the application not be given special privileges the neighbors don't enjoy. He noted that this permit process is taking away the use of about 93% of the property. The third finding is that it is consistent with the General Plan. McKinley stated that he believes the permit complies with the General Plan.

2. Bill Van Doren, neighbor, asked those in the audience who live on Rasmussen Lane to stand. He stated that they represent almost everybody who owns property on Rasmussen. This lot is a wetlands lot. There is no other way to put it. He stated that the only part of the lot that is not wetlands was filled just a few years ago to make the wetlands invisible. The Corps did not know that it was filled. Van Doren presented a photo of the property that was taken in 1972, stating that there is now different vegetation because of fill, however, it is still hydrologically a wetland. Once a house is built pesticides, herbicides, fertilizers, etc. are will be used in the yard that will go into the ground and water table. He noted that it was difficult for the State and federal agencies to push hard since the City is the lead agency. It does not make sense for people to try to force a house on a site where it does not belong.
3. Leo Vargas, neighbor, said that in the early 1970's Council voted to condemn his residence so the City could widen the right of way that separates his property from the project site. Bill Dodge, the City surveyor, was developing the property to the north. The action was later rescinded because they did not open the public hearing, and Dodge later sold the property. Vargas sought the support of other neighbors along the right of way and had Rasmussen Lane paved. Vargas dug the ditch along the road to his house from the wetlands. Vargas added that he has not touched the ditch since he found out the property was a wetland.
4. Janice Sullivan, neighbor, referred to McKinley's statement that he is having problems getting a variance and that the house is not big enough. He compares it to other houses in the neighborhood. How can he equate them? She noted that the other houses are 40-50 years old and not on wetlands. The applicant is trying to develop a wetlands area for a house. One of the proposed conditions is for an annual survey to be performed for five years to make sure the building site is not infringing on the wetlands. She asked what would happen when the surveys are not being done anymore. New evidence came up recently concerning the presence of an endangered plant outside the wetland area. She wanted to know why that evidence is being disregarded and offered an analogy of a death row inmate in Texas whose appeal was rejected despite new evidence of her innocence.
5. Rhonda Wilson, former neighbor, asked where the two telephone poles would be relocated and how the project would impact right of way improvements. She stated that she used to collect pollywogs on the property and was surprised to learn that so much area is considered buildable.

Chair Snyder closed the public hearing at 7:19 p.m. The Commission took a break and reconvened at 7:24 p.m.

Discussion: The following items were noted during discussion of this issue:

- A. Director Goble noted that the City's current traffic management plan does not include improvements to Rasmussen Lane. He stated that, during the break, he spoke to Vargas and assured him that his property would not be condemned. If the Commission approves the 15' dedication it would be added to the existing 20' lane. Once you have 5' sidewalks and 12' travel lanes there would be no room left for on-street parking. In an area like this, it is probably preferred. If improvements were made to Rasmussen it would not further encroach on Vargas' property. If an additional development or a division occurred then the lane's current configuration would continue with no parking.
- B. Director Ruffing said that the plant recently identified outside the wetland area is not an endangered species.
- C. Snyder stated that a garage would have to be shoe-horned onto the property and he wondered where guests would park. He believes that the conditions and mitigations to protect the wetland habitat are next to impossible to enforce. He proposed a straw vote to determine the Commission's stance.
- D. Lucas said that she did not think that the lot was buildable. She is concerned, not only with the need to protect the wetlands, but also about the possibility of settlement/sinking due to the fill. She also expressed concerns about mold and mildew with such a high water table under the fill. She does not believe it is fair to the applicant to allow them to build in a precarious spot.
- E. Courtney stated that she understood the recommendation prepared by City staff and does not agree with the statements in Van Doren's letters that staff was predisposed to support development. She noted that the project was repeatedly referred to other public agencies, and none of them put their foot down and said no. Despite the recommendation for approval, however, she said that she is concerned about whether the project would negatively impact the sensitive habitat and she has a gut feeling that it is not a good idea.
- F. Hannon agreed with the recommendation from staff.
- G. Johnson stated that she did not want the City to be held liable. Her inclination was to approve the application.

Moved by Lucas, seconded by Courtney, to continue action to the September 14, 2005 meeting and to direct staff to prepare an alternative recommendation.

**VOTE: Ayes: Commissioners Snyder, Lucas, Courtney, and Hannon
Nay: Commissioner Johnson**

CONDUCT OF BUSINESS

2. Matters from Chair/Commission/Staff

- A. Director Ruffing informed the Commission that Georgia-Pacific's (G-P) application, CDP 3-05, for foundation removal and interim remedial measures had been appealed to Council and is scheduled to be heard at their regular meeting on October 11.
- B. Director Ruffing announced that there will be a community meeting to discuss preparation of a specific plan for the G-P mill site on Saturday, October 15, in the multi-purpose room at Dana Gray Elementary School. The meeting will start at 10:00 a.m. and will be immediately followed by a bus tour of the property. She stated that reservations are required for the bus tour. Commissioners are encouraged to attend and be actively engaged in the specific plan process.

ADJOURNMENT

Chair Snyder adjourned the meeting at 7:44 p.m.